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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/646,261	09/11/2000	Anthony David Kilvert	7372-2	7585

7590

08/23/2002

Woodard Emhardt Naughton Moriarty & Mcnett
Bank One Center Tower
Suite 3700
111 Monument Circle
Indianapolis, IN 46204-5137

EXAMINER

THOMSON, MICHELLE R

ART UNIT

PAPER NUMBER

3641

DATE MAILED: 08/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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12

DATE MAILED:

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Commissioner of Patents and Trademarks

Response to Amendment

1. The amendment filed on 6/24/02 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 12-20 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03. The remaining claims are not readable on the elected invention because newly submitted claims 12-20 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Applicant's original claims were directed toward the species comprising a capsule that is designed to be propelled from a launch tube (Figures 2 and 3). Applicant's newly submitted claims are drawn toward a disclosed patentably distinct species comprising a capsule that is designed to be manually thrown into the path of the approaching vessel and is actuated by pulling a pin which opens a manual release valve (Figures 5a, 5b and 6).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in

Art Unit: 3641

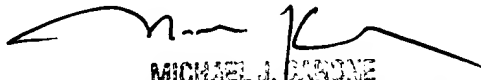
order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle (Shelley) Thomson whose telephone number is 703.306.4176. The examiner can normally be reached on Monday thru Thursday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 703.306.4198. The fax phone numbers for the organization where this application or proceeding is assigned are 703.305.7687 for regular communications and 703.305.7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.1113.

mrt
August 21, 2002



MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER